

United States Postal Service

§ 966.4

is (703) 812-1900, and the Judicial Officer's Web site is <http://about.usps.com/who-we-are/judicial/welcome.htm>. The fax number is (703) 812-1901.

[77 FR 65104, Oct. 25, 2012]

§ 966.4 Petition for a hearing and supplement to petition.

(a) A former employee who is alleged to be responsible for a debt to the Postal Service may petition for a hearing under this part, provided:

(1) Liability for the debt and/or the proposed offset schedule has not been established under part 452.3 or part 462.3 of the Employee & Labor Relations Manual (ELM);

(2) The former employee has received a Notice from the Accounting Service Center in compliance with section 472.1 of the ELM and the administrative offset provisions of the FCCS, informing the former employee of the debt and an offset schedule to satisfy the debt, the former employee's rights under 31 U.S.C. 3716(a), the right to request reconsideration of the debt and/or offset schedule from the Accounting Service Center, and the right to request review under this part; and

(3) The former employee has requested reconsideration of the Postal Service's determination of the existence or amount of the alleged debt and/or the offset schedule proposed by the Postal Service within thirty (30) calendar days of receiving the notice referenced in paragraph (a)(2), and either has received a reconsideration determination, or within sixty (60) calendar days from the reconsideration request has not received a reconsideration determination.

(b) Notwithstanding the provisions of this part, the Postal Service may omit the procedures for notice and reconsideration in this part under certain circumstances as set forth below:

(1) If the Postal Service first learns of the existence of the amount owed by the former employee when there is insufficient time before payment would be made to the former employee to allow for prior notice and an opportunity for review under this part. When prior notice and an opportunity for review are omitted, the Postal Service will give the former employee notice and an opportunity for review as soon

as practicable and will promptly refund any money ultimately found not to have been owed. In such circumstances whereby prior notice and an opportunity for pre-deprivation review are omitted, the former employee may submit a petition for review under this part.

(2) If an agency (including the Postal Service) has already given the former employee any of the required notice and review opportunities set forth in the FCCS with respect to a particular debt. In such a situation, the Postal Service need not duplicate such notice and review opportunities before taking an administrative offset.

(3) If a former bargaining unit employee of the Postal Service pursues, in accordance with the applicable provisions of his or her CBA, a grievance concerning the Postal Service's claim, including, but not limited to, the existence of a debt owed to the Postal Service, the amount of such debt, and/or the proposed repayment schedule, and none of the circumstances set forth in ELM section 483.1 apply;

(4) If otherwise allowed by law, including, but not limited to, the administrative offset provisions of the FCCS.

(c) Within thirty (30) calendar days after the date of receipt of the Accounting Service Center's decision upon reconsideration, after the expiration of sixty (60) calendar days after a request for reconsideration where a reconsideration determination is not made, or following an administrative offset taken without prior notice and opportunity for reconsideration pursuant to paragraph (b)(1) of this section, the former employee must file a written, signed petition, requesting a written or oral hearing, with the Recorder, Judicial Officer Department, United States Postal Service, 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201-3078.

(d) The petition must include the following:

(1) The words, "Petition for Review Under 39 CFR Part 966";

(2) The former employee's name;

(3) The former employee's home address, email address (if available), and telephone number, and any other address and telephone number at which

§ 966.5

39 CFR Ch. I (7–1–13 Edition)

the former employee may be contacted about these proceedings;

(4) A statement of the date the former employee received the Accounting Service Center's decision upon reconsideration of the alleged debt and a copy of the decision;

(5) A statement of the grounds upon which the former employee objects to the Postal Service's determination of the debt or to the administrative offset schedule proposed by the Postal Service for collecting any such debt. This statement should identify with reasonable specificity and brevity the facts, evidence, and legal arguments, if any, which support the former employee's position; and

(6) Copies of all records in the former employee's possession which relate to the debt and which the former employee may enter into the record of the hearing.

(e) The former employee may, if necessary, file with the Recorder additional information as a supplement to the petition at any time prior to the filing of the answer to the petition under § 966.7, or at such later time as permitted by the Hearing Official upon a showing of good cause.

[77 FR 65105, Oct. 25, 2012]

§ 966.5 Effect of petition filing.

Upon receipt and docketing of the former employee's petition, the Recorder will notify the General Counsel that the petition has been filed and that a timely filed petition stays further collection action.

§ 966.6 Filing, docketing and serving documents; computation of time; representation of parties.

(a) *Filing.* All documents required under this part must be filed by the former employee or the General Counsel with the Recorder. (The Recorder's normal business hours are between 8:45 a.m. and 4:45 p.m., eastern standard or daylight saving time as appropriate during the year.) Unless otherwise directed by the Hearing Official, the party filing any document shall send a copy thereof to the opposing party.

(b) *Docketing.* The Recorder will maintain a docket record of proceedings under this part and will assign each petition a docket number. After

notification of the docket number, the former employee and General Counsel should refer to it on any further filings regarding the petition.

(c) *Time computation.* A filing period under the rules in this part excludes the day the period begins, and includes the last day of the period unless the last day is a Saturday, Sunday, or legal holiday, in which event the period runs until the close of business on the next business day. Requests for extensions of time shall be made in writing stating good cause therefor, shall represent that the moving party has contacted the opposing party about the request, or made reasonable efforts to do so, and shall indicate whether the opposing party consents to the extension.

(d) *Representation of parties.* After the filing of the petition, further document transmittals for, or communications with, the Postal Service shall be through its representative, the General Counsel, or designee. The representative of the Postal Service, as designated by the General Counsel, shall file a notice of appearance as soon as practicable, and no later than the date for filing the answer. If a former employee has a representative, further transmissions of documents and other communications by and with the former employee shall be made through his or her representative rather than directly with the former employee.

[77 FR 65105, Oct. 25, 2012]

§ 966.7 Answer to petition.

Within thirty (30) days after the date of receipt of the petition, the General Counsel shall file an answer to the petition, and attach all available relevant records and documents in support of the Postal Service's claim, or the administrative offset schedule proposed by the Postal Service for collecting any such claim. The answer shall provide a clear and detailed description of the basis for the Postal Service's determination of the alleged debt and its calculation of the amount of the alleged debt and/or its proposed offset schedule, as appropriate.

[77 FR 65106, Oct. 25, 2012]